

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ROGER LEE THOMAS, : CIVIL ACTION NO. 1:CV-11-0599
Petitioner : (Chief Judge Kane)
v. : (Magistrate Judge Blewitt)
JOSEPH NISH, et al., :
Respondents :
:

REPORT AND RECOMMENDATION

I. Background.

On March 30, 2011, Petitioner, Roger Lee Thomas, an inmate at the State Correctional Institution at Waymart, Pennsylvania, filed, *pro se*, a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Doc. 1). Petitioner has paid the filing fee. Petitioner attached several exhibits to his Habeas Petition.

II. Discussion.

A 28 U.S.C. §2254 petition may be brought in the federal judicial district in which the state court of the conviction is located and, when the prisoner is confined in a prison located in another federal district in the same state as the state of conviction, the petition may be brought in the district of confinement. The district court for the district in which the petition is filed may transfer the petition to the district court for the district of the conviction when to do so is in the interests of justice. 28 U.S.C. §2241(d).

Petitioner is challenging his November 2000 conviction and sentence for aggravated indecent assault, indecent assault and corruption of minors in the Fayette County Court of Common Pleas, Pennsylvania. (Doc. 1, p. 2). Petitioner raises only one ground, as follows: "Improper Dismissal of [Petitioner's] NUNC PRO TUNC PCRA Petition." (Doc. 1, p. 20). 8). Petitioner asserts that his trial counsel's newly discovered long-term illness interfered with his ability to effectively represent him.

The Petitioner is currently a prisoner at the State Correctional Institution at Waymart, Pennsylvania, which is in the Middle District of Pennsylvania. He is challenging his 2000 conviction and sentence in Fayette County, Pennsylvania, which is in the Western District of Pennsylvania. All records of conviction, transcripts of proceedings, witnesses, and counsel, both trial and appellate counsel, are located within the Western District of Pennsylvania.

It will be in the interests of justice to transfer Petitioner Thomas's Habeas Petition to the United States District Court for the Western District of Pennsylvania. All of the conduct giving rise to Petitioner Thomas's habeas claims, as well as his challenged state court conviction and sentence, occurred in the Western District of Pennsylvania.

III. Recommendation.

Based on the foregoing, it is respectfully recommended that this case be transferred to the United States District Court for the Western District of Pennsylvania pursuant to 28 U.S.C. §2241(d). See *Reinhold v. Rozum*, 2007 WL 4248273 (M.D. Pa.); *Wright v. Tennis*, 2007 WL121855 (M.D. Pa.); *Wright v. Diguglielmo*, 2007 WL 1437491 (E.D. Pa.); *Morales v. Palakovich*, Civil No. 10-0036, M.D. Pa., 2-9-10 Order, J. Kosik (§ 2254 Habeas Petition of

inmate confined in Middle District of Pennsylvania challenging his Lancaster County, Pennsylvania, conviction and sentence was transferred to the Eastern District of Pennsylvania).



THOMAS M. BLEWITT
United States Magistrate Judge

Dated: April 2011